

NOTICE OF ADOPTION

BOARD OF EDUCATION ADOPTION & RESCINDED REGULATIONS

The Board of Education of the Northern Mariana Islands hereby notifies the general public that the following Regulations have been adopted by the Board of Education pursuant to Article XV of the CNMI Constitution, the Education Act of 1988, and the Administrative Procedures Act.

"Regulations for the Public School System Employment of Certified Personnel" & "Regulations for the Public School System Employment of Non-Certified Personnel."

The above adopted Regulations were published in the Commonwealth Register Vol. 18.-No. 11 (November 15, 1996) in proposed form for public comment. The attached "Regulations for the Public School System Employment of Certified Personnel" and the attached "Regulations for the Public School System Employment of Non-Certified Personnel" will rescind and replace the following former policies:

1. Policies 500 through 507 PERSONNEL, STAFF & CERTIFICATION
2. Policy 806 Drugs & Alcohol Abuse Policy: School Discipline & Enforcement
3. Policy 1003 Non-Employment Contracts & personal Services Contracts
4. Policy 1005 Personnel System Regulations
5. Policy 1009 Harrassment on the Basic of Race, Color, National Origin, Disability & Sex on PSS Grounds or by PSS Employees

The above adopted Regulations were published in the Commonwealth Register Vol. 18.-No. 11 (November 15, 1996) in proposed form for public comment. The attached "Regulations for the Public School System Employment of Certified Personnel" and the "Regulations for the Public School System Employment of Non-Certified Personnel" will rescind and replace the following former regulations:

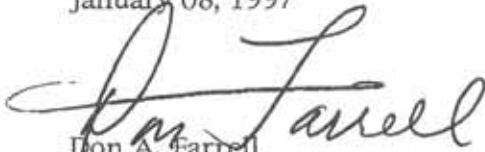
6. Regulations 1000 through 1005 PURPOSE & SCOPE
7. Regulations 2000 through 2003 ORGANIZATION FOR PERSONNEL MANAGEMENT
8. Regulations 3000 through 3123 STAFFING/EXAMINATIONS
9. Regulations 3200 through 3206 POSITION & APPOINTMENTS
10. Regulations 3400 through 3403 SUSPENSIONS, SEPARATIONS & DEMOTIONS
11. Regulations 3600 through 3608 EMPLOYEE APPEALS
12. Regulations 3700 through 3710 GRIEVANCE PROCEDURE
13. Regulation 4102(L) Certified Definition
14. Regulation 4215 Overtime Compensation, Compensatory Time & Control
15. Regulation 4216 Standary Work Week
16. Regulations 5200 through 5207 EMPLOYEE CONDUCT & PERFORMANCE
17. Regulations 5300 through 5320 RESPONSIBILITIES OF EMPLOYEE & MANAGEMENT
18. Regulations 5400 through 5405 POLITICAL ACTIVITY
19. Regulations 7100 through 7110 LEAVES OF ABSENCE
20. Regulations 7200 through 7206 BENEFITS
21. Regulation 8007 Appeals
22. Regulations 10000 through 10000.221 CERTIFICATIONS

Trans Prop.
01/08/97
Page 2

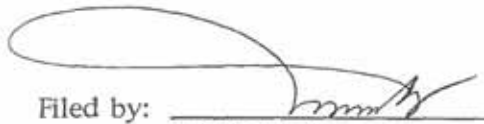
Copies of the adopted regulations may be obtained from the Office of the Commissioner of Education, Public School System, P.O. Box 1370 CK, Saipan, MP 96950.

In accordance with 1 CMC Sec. 9105(b), the adopted regulations shall take effect ten (10) days after the date of publication of this Commonwealth Register issue.

January 08, 1997


Don A. Farrell
Chairman, Board of Education

Copy recieved by: Herman J. Guerrero 1/14/97
Herman T. Guerrero
Office of the Governor


Filed by: 1/8/97
Soledad B. Sasamoto
Registrar of Corporations

**REGULATIONS
FOR THE
PUBLIC SCHOOL SYSTEM
EMPLOYMENT OF CERTIFIED PERSONNEL**

CHAPTER 1: THE HIRING PROCESS	Page 6
A. Recruiting and Interviewing	6
§1101. <u>Purpose</u>	6
§1102. <u>PSS Recruiters</u>	6
§1103. <u>The Interview</u>	7
§1104. <u>Background Investigation</u>	7
§1105. <u>Recommendation</u>	8
B. The Employment Decision	9
§1201. <u>Purpose</u>	9
§1202. <u>The Decision</u>	9
C. The Employment Contract	10
§1301. <u>Purpose</u>	10
§1302. <u>The Contract Form</u>	10
§1303. <u>Routing of the Contract</u>	11
§1304. <u>No Action Without Fully-Executed Contract</u>	12
D. The Contract Period	12
§1401. <u>Purpose</u>	12
§1402. <u>Term of Employment</u>	13
§1403. <u>Dates of Instruction</u>	13
§1404. <u>Assignment Flexibility</u>	13
E. Renewal (No Tenure)	13
§1501. <u>Purpose</u>	13
§1502. <u>Renewal</u>	14
§1503. <u>Request for Renewal</u>	14
 CHAPTER 2: CERTIFICATION OF TEACHERS AND LIBRARIANS	 15
A. Requirement of Certification	15
§2101. <u>Certification Required</u>	15
§2102. <u>Effect on Employment Contract</u>	15
§2103. <u>Definitions</u>	15
B. Requirements for Issuance of Certificate	16
§2201. <u>The Basic Certificate</u>	16
§2202. <u>Limited Reciprocity</u>	17
§2203. <u>Intermediate Certificate</u>	17
C. Procedure for Certification	18
§2301. <u>Temporary Certificate</u>	18
§2302. <u>Application for Basic Certificate</u>	18

§2303.	<u>Application for Intermediate Certificate</u>	19
§2304.	<u>Burden of Proof</u>	19
§2305.	<u>Certification Decision</u>	20
D.	Duration of Certificates	20
§2401.	<u>Basic Certificate</u>	20
§2402.	<u>Renewal or Reapplication</u>	20
§2403.	<u>Intermediate Certificate Required for PSS Teachers/Librarians</u>	20
§2404.	<u>Tenure Not Created by Certificate</u>	21
§2405.	<u>Expiration of Previously Issued Certificates</u>	21
E.	Revocation and Suspension of Certificates	21
§2501.	<u>Grounds for Revocation and Suspension</u>	21
§2502.	<u>Mandatory Revocation or Suspension</u>	21
§2503.	<u>Grounds for Discretionary Action</u>	21
§2504.	<u>Complaint</u>	22
§2505.	<u>Interim Suspension</u>	22
§2506.	<u>Action of the Board</u>	22
§2507.	<u>Opportunity for Formal Hearing</u>	22
§2508.	<u>Scheduling the Hearing</u>	22
§2509.	<u>Burden of Proof</u>	23
§2510.	<u>Conduct of Hearing</u>	23
§2511.	<u>Evidence</u>	24
§2512.	<u>Decision</u>	24
§2513.	<u>Appeal</u>	25

CHAPTER 3: STANDARDS OF CONDUCT FOR EMPLOYEES 26

A.	Health Standards	26
§3101.	<u>Purpose</u>	26
§3102.	<u>Limitation</u>	26
§3103.	<u>Medical Examination at Start of Contract</u>	26
§3104.	<u>Qualifications</u>	26
§3105.	<u>Scope of Medical Examination</u>	26
§3106.	<u>Effect on Contract</u>	27
§3107.	<u>Medical Examination During Contract Term</u>	27
§3108.	<u>Restriction on Employment Action</u>	27
§3109.	<u>Confidentiality of Medical Reports</u>	27
B.	Alcohol Use and Alcoholism	28
§3201.	<u>Purpose</u>	28
§3202.	<u>Use of Alcohol</u>	28
§3203.	<u>Intoxication</u>	28
§3204.	<u>Possession of Alcohol</u>	28
§3205.	<u>Alcoholism</u>	28
§3206.	<u>Action by Supervisor</u>	28

C.	Illegal Drugs	29
	§3301. <u>Purpose</u>	29
	§3302. <u>Drug-Free Workplace</u>	29
	§3303. <u>Intoxication</u>	29
D.	Teaching Performance	29
	§3401. <u>Duty of Competent Instruction</u>	29
	§3402. <u>Duty of Care</u>	29
	§3403. <u>Absence from Work and Tardiness</u>	29
	§3404. <u>Insubordination</u>	30
	§3405. <u>Cruelty to Students</u>	30
	§3406. <u>Religious Instruction</u>	30
E.	Personal Conduct	31
	§3501. <u>Private Employment</u>	31
	§3502. <u>Conflict of Interest</u>	32
	§3503. <u>Gifts and Gratuities</u>	32
	§3504. <u>Endorsements</u>	32
	§3505. <u>Nepotism</u>	32
	§3506. <u>Unprofessional Conduct</u>	33
	§3507. <u>Dishonesty</u>	33
	§3508. <u>Criminal Conduct</u>	33
	§3509. <u>Immoral Conduct</u>	33
	§3510. <u>Discrimination</u>	34
	§3511. <u>Political Activities</u>	34

CHAPTER 4. EMPLOYEE DISCIPLINE 35

A.	Forms of Discipline	35
	§4101. <u>Formal Reprimand</u>	35
	§4102. <u>Reduction in Rank or Pay</u>	35
	§4103. <u>Suspension</u>	35
	§4104. <u>Dismissal</u>	35
B.	Who May Initiate Discipline?	35
	§4201. <u>Principals</u>	35
	§4202. <u>Human Resources Officer</u>	35
	§4203. <u>Management Official</u>	35
C.	When Discipline is Warranted	36
	§4301. <u>Standard</u>	36
	§4302. <u>Factors to be Considered in Initiating Discipline</u>	36
D.	When Disciplinary Measures Must Be Followed	37
	§4401. <u>Not for Reprimands</u>	37
	§4402. <u>Not for Non-Renewal</u>	37
E.	Initiating Discipline	37
	§4501. <u>Notice of the Charges</u>	37
	§4502. <u>Pre-Discipline Hearing</u>	37

§4503.	<u>Commissioner's Decision</u>	37
§4504.	<u>Suspension Pending Decision</u>	38
§4505.	<u>Discipline After Decision</u>	38
F.	Formal Due Process Hearing	38
§4601.	<u>Opportunity for Formal Hearing</u>	38
§4602.	<u>Scheduling the Hearing</u>	38
§4603.	<u>Burden of Proof</u>	39
§4604.	<u>Conduct of Hearing</u>	39
§4605.	<u>Evidence</u>	40
§4606.	<u>Decision</u>	40
§4607.	<u>Appeal</u>	40
CHAPTER 5:	EMPLOYEE GRIEVANCES	41
A.	Scope of this Chapter	41
§5101.	<u>Included Matters</u>	41
§5102.	<u>Excluded Matters</u>	41
B.	Employee Protection	41
§5201.	<u>Restraint or Retaliation</u>	41
§5202.	<u>Representation</u>	41
C.	First Step: Consultation with Supervisor	41
§5301.	<u>Prerequisite</u>	41
§5302.	<u>Duty of Supervisor</u>	41
D.	Filing of the Complaint and Mediation	42
§5401.	<u>When Filing is Permitted</u>	42
§5402.	<u>Contents of Complaint</u>	42
§5403.	<u>Filing of the Complaint</u>	42
§5404.	<u>Equal Employment Officer</u>	42
§5405.	<u>Mediation</u>	43
§5406.	<u>Report</u>	43
E.	Commissioner's Review	44
§5501.	<u>Request for Review</u>	44
§5502.	<u>EEO Report</u>	44
§5503.	<u>Commissioner's Decision</u>	44
F.	Employee Appeal	44
§5601.	<u>Notice of Appeal</u>	44
§5602.	<u>Hearing Panel</u>	44
§5603.	<u>Scheduling the Hearing</u>	44
§5604.	<u>Legal Counsel</u>	45
§5605.	<u>Pre-hearing Conference</u>	45
§5606.	<u>Burden of Proof</u>	45
§5607.	<u>Conduct of Hearing</u>	45
§5608.	<u>Evidence</u>	46
§5609.	<u>Submission on Stipulated Facts</u>	46

§5610. <u>Decision</u>	46
§5612. <u>Appeal</u>	47
CHAPTER 6: EQUAL EMPLOYMENT OPPORTUNITY	48
A. Equal Employment Opportunity	48
§6101. <u>Policy</u>	48
§6102. <u>Discrimination and Harassment Prohibited</u>	48
§6103. <u>Discrimination Defined</u>	48
§6104. <u>Harassment Defined</u>	48
B. Violations and Employee Discipline	49
§6201. <u>Reporting Violations</u>	49
§6202. <u>Employee Discipline</u>	49
CHAPTER 7: EMPLOYMENT BENEFITS	50
A. Insurance	50
§7101. <u>Medical and Life Insurance</u>	50
B. Retirement	50
§7201. <u>Retirement Fund</u>	50
C. Leave	50
§7301. <u>Purposes of Leave</u>	50
§7302. <u>Annual Leave</u>	51
§7303. <u>Sick Leave</u>	52
§7304. <u>Compassionate Leave</u>	52
§7305. <u>Military Training Leave</u>	52
§7306. <u>Administrative Leave</u>	52
§7307. <u>National Holidays</u>	52
§7308. <u>Court Leave</u>	52
§7309. <u>Maternity/Paternity Leave</u>	52
§7310. <u>Training and Education Leave</u>	52
§7311. <u>Family and Medical Leave</u>	54
§7312. <u>Unpaid Training and Education Leave</u>	56
§7313. <u>Leave Without Pay</u>	56
§7314. <u>Absent Without Leave</u>	56
EXHIBITS	
"A"	<u>Employment Application</u>
"B"	<u>Intent to Offer Employment Letter</u>
"C"	<u>Employment Contract</u>
"D"	<u>Off-Island Hire Contract Addendum</u>
"E"	<u>Application for Certification</u>

government and transmitted to the applicant without delay. In no event shall any applicant be requested to begin employment or to travel from the point of recruitment to the CNMI to begin employment without the Human Resources Officer first having in its possession a fully-executed employment contract.

D. The Contract Period

§1401. Purpose. The growth in the number of students attending public schools has exceeded the expansion of school facilities. This has lead to the use of multi-track systems in the senior high school, the junior high school and one elementary school on Saipan. This method of scheduling may be extended to other schools in the future. The multi-track system divides a school's student body into two to four groups, each with its own teachers. Each group starts and ends its school year on different dates than the other groups. Thus, administrators need flexibility in assigning teachers to groups of students. In order to accomplish this, the employment contract shall have two features: (1) it shall not specify the dates of actual instruction each year, and (2) it shall contract for teaching services for two 190 day periods which may be split up in any manner the Board decides and which may occur at any point over the two year contract term.

§1402. Term of Employment. Employment contracts shall be for a two year term; however, in special circumstances the Commissioner may approve a contract for a lesser term. CNMI retirees who have received retirement benefits, substitute teachers and substitute librarians may not be employed for a period in excess of sixty (60) calendar days in any fiscal year.

§1403. Dates of Instruction.

a. Employment contracts shall require instructional services for two (2) one hundred ninety (190) day periods. The starting and ending dates of these periods shall not be set forth in the contract, but the teacher shall be given at least thirty (30) day advance notice of the start of any period in which he or she is required to teach. All possible effort will be made to give notice as early as practicable. Substitute teachers shall be assigned work on a daily basis.

b. A period of "one hundred ninety (190) days" shall mean the one hundred eighty (180) instructional days as defined by the Board of Education- approved school calendar plus ten (10) non-instructional days.

c. In the case of any CNMI government retiree who has received retirement benefits, the period of instruction per fiscal year must be limited to a maximum of sixty (60) calendar days in order to avoid forfeiting retirement benefits.

§1404. Assignment Flexibility. The Human Resources Officer has the discretion to move teachers in and out of the multi-track systems, transfer teachers from one track to another, transfer teachers to other schools, change the subject matter to be taught and change the grade of students taught as the Human Resources Officer deems to be in the best interests of the Public School System and its students.

E. Renewal (No Tenure)

§1501. Purpose. No employee has a right to the renewal of his or her contract of employment regardless of whether or not job performance during the contract period is satisfactory. The decision whether to extend an offer for further employment is wholly within

the discretion of the Public School System. No tenure of any nature, express or implied, is granted to any employee.

§1502. Renewal. No employee or officer of the Public School System is authorized to indicate, expressly or impliedly, that any employee has a right to be renewed based upon their contract or job performance.

§1503. Request for Renewal. If an employee wishes to be considered for an additional contract period, then notice should be given to the Human Resources Officer six (6) months in advance of the termination date in order to be considered for renewal.

§3301. Purpose. Unlike alcoholics, illegal drug users are not protected by the ADA. Only *former* users of illegal drugs are protected from discrimination. Therefore, these regulations are intended to clearly set forth that no illegal drug usage will be tolerated by PSS.

§3302. Drug-Free Workplace. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance by any employee is prohibited in the workplace. Violation of this rule will result in the dismissal of an employee.

§3303. Intoxication. No employee shall be under the influence of drugs while in the workplace.

D. Teaching Performance

§3401. Duty of Competent Instruction. A teacher must possess detailed knowledge and understanding of the subject matter to be taught, be able to communicate effectively with his or her students and must effectively teach the assigned subject matter to the students.

§3402. Duty of Care. A teacher must use due care to organize materials, prepare for classes, maintain harmony in the classroom and school grounds and employ effective teaching techniques to ensure that the assigned teaching goals are met.

§3403. Absence from Work and Tardiness. An employee must attend his or her regularly scheduled classes, remain at the school during preparation periods, attend in-service meetings as scheduled, arrive promptly at his or her workplace and attend other required functions, such as evening open houses. An intentional disregard of repeated directives to attend or continuous tardiness despite repeated directives to be prompt may result in dismissal from employment.

§3404. Insubordination.

a. An employee is expected to carry out the announced policies and programs of PSS. While policies which relate to the employee's duties are under consideration, the employee may, and is expected to, express his or her opinions concerning its merits. Once, however, a decision has been rendered by a person with authority, the employee will be required to unreservedly assume the success of the program or policy which he or she is responsible to effectuate.

b. If an employee willfully or intentionally disobeys a reasonable order of a superior or the lawful regulation or policy of PSS, he or she may be subject to appropriate disciplinary action, including dismissal.

§3405. Cruelty to Students.

a. A teacher has the right to exercise *in loco parentis* authority over students and may control, restrain and correct them to further educational purposes; however, such actions are subject to, but not limited to, the following limitations:

(1) Corporal Punishment: Teachers are forbidden to use corporal punishment on any student.

(2) Psychological Harm: Teachers are forbidden to engage in any act of psychological cruelty which inflicts emotional trauma on a student.

§3406. Religious Instruction.

a. The First Amendment of the U.S. Constitution and Article I, § 2 of the CNMI Constitution prohibit government action that establishes religion. The required separation